UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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RAVEENDRAN NARAYANAN,

Plaintiff,

MEMORANDUM & ORDER
22-CV-5661 (EK)(LB)

-against-

MERRICK B. GARLAND, LETITIA JAMES, KILOLO KIJAKAZI, RUDOLPH GIULIANI, GEORGIA M. PESTANA, et al.

Defendants.

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ERIC KOMITEE, United States District Judge:

Plaintiff Raveendran Narayanan filed this action in 2022, asserting a litany of claims against seven defendants. As relevant here, those claims arose mainly from an assault that he suffered at a New York City homeless shelter in 1998. The Court dismissed the claims against four defendants: Merrick Garland, the former U.S. Attorney General; Letitia James, the New York State Attorney General; Kilolo Kijakazi, the former Acting Commissioner of the Social Security Administration; and Georgia Pestana, the former Corporation Counsel of New York City.

One of the remaining defendants — FJC Security, Inc. — has now moved for summary judgment.[1] Narayanan, who is representing himself, has filed a cross-motion for summary

[1] The two remaining defendants are Dr. David Berman, an ophthalmologist, and former Mayor of New York City Rudolph Giuliani. Neither defendant has appeared before the Court.

judgment. For the reasons outlined below, FJC's motion is granted, and Narayanan's motion is denied.

I. Background

A. Factual History

Although both parties have moved for summary judgment, no discovery has occurred. And Narayanan (unlike FJC) has not submitted a statement setting forth the material facts as to which he contends there is no dispute, as required by Rule 56.1 of this district's Local Civil Rules. Accordingly, "for purposes of resolving the pending motions, the record is limited to the complaint," FJC's statement of undisputed facts, and matters of which the Court may take judicial notice.[2] *See Narayanan v. Garland*, No. 22-CV-5661, 2023 WL 6307872, at *1 (E.D.N.Y. Sept. 28, 2023); *FEC v. Hall-Tyner Election Campaign Comm.*, 524 F. Supp. 955, 959 n.7 (S.D.N.Y. 1981) ("[A]ny facts subject to judicial notice may be properly considered in a motion for summary judgment.").

The Court outlined the facts of this case — as alleged in the complaint — in a prior order. *See Narayanan*, 2023 WL

[2] The fact that discovery has not begun does not bar the Court from ruling on the parties' summary judgment motions. "[T]here is nothing in the Federal Rules of Civil Procedure precluding summary judgment — in an appropriate case — prior to discovery." *Emigra Grp., LLC v. Fragomen, Del Rey, Bernsen & Loewy, LLP*, 612 F. Supp. 2d 330, 346 (S.D.N.Y. 2009); *see also id.* at 346 nn.51-54 (collecting authorities). Generally speaking, when the "material facts are undisputed and . . . a judgment on the merits is possible merely by considering the contents of the pleadings," parties should move for judgment on the pleadings, rather than summary judgment. *Pizza on 23rd Corp. v. Liberty Mut. Ins. Co.*, 723 F. Supp. 3d 307, 311 (S.D.N.Y. 2024).

6307872, at *2. As relevant here, Narayanan asserts that a group of men assaulted and robbed him at a Brooklyn homeless shelter in the early hours of September 13, 1998. Complaint 10, ECF No. 1; FJC Security's 56.1 Statement ¶ 5, ECF No. 89-1. He claims that the assailants stole several items — a briefcase, a watch, documents, and $800 in cash — and inflicted injuries that required a nine-day hospital stay. Complaint ¶¶ 32, 89-91. And he asserts that while the City of New York retained FJC to secure the shelter, no security guards were on duty between midnight and 8 a.m. Complaint ¶ 30.

B. Procedural History

Narayanan sued FJC in New York State Supreme Court in April 1999. FJC Security's 56.1 Statement ¶ 6. He alleged that he was a third-party beneficiary of the contract between FJC and the city, and that FJC breached its contractual duties to him by failing to prevent the attack. *See Narayanan v. City of New York*, 21 A.D.3d 533, 534 (2d Dep't 2005). The Second Department eventually ordered the trial court to grant summary judgment to FJC, concluding that even if Narayanan were a third-party beneficiary, FJC "could [not] have reasonably expected, anticipated, or prevented the attack upon [Narayanan]." *Id.*

In February 2022, Narayanan filed this action in the Southern District of New York. *See generally* Complaint.[3] Though the complaint is difficult to decipher, Narayanan appeared to bring three claims against FJC: (1) a breach-of-contract claim like the one he brought in state court, *see* Complaint 7; (2) a generic "intentional tort" claim, *see id.* at 10; and (3) an undescribed claim under 18 U.S.C. § 1983, *see id.* at 12-14.

II. Legal Standard

Courts should construe the submissions of a *pro se* litigant "liberally" and interpret them "to raise the strongest arguments that they suggest." *Triestman v. Fed. Bureau of Prisons*, 470 F.3d 471, 474 (2d Cir. 2006) (per curiam).

"Nonetheless, proceeding *pro se* does not otherwise relieve a litigant of the usual requirements of summary judgment." *Houston v. Teamsters Loc. 210, Aff. Health & Ins. Fund-Vacation Fringe Ben. Fund*, 27 F. Supp. 3d 346, 351 (E.D.N.Y. 2014). Under those requirements, summary judgment is appropriate where "there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). The movant must demonstrate the absence of any such dispute. *Anderson v. Liberty Lobby,*

[3] Narayanan labeled this filing as a petition for a writ of habeas corpus. Judge Koeltl noted that Naranyan's "submission [was] a civil action not a habeas corpus petition," and treated it as such. *See* Docket Order dated February 4, 2022, ECF No. 4.

Inc., 477 U.S. 242, 256 (1986). If the burden of proof rests with the non-movant, the movant can prevail by pointing out the lack of evidence supporting "an element essential to [the non-movant's] case." *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986).

III. Discussion

A. The Breach-of-Contract Claim

We begin with Narayanan's claim that FJC was liable for failing to prevent the attack on him. FJC argues, among other things, that claim preclusion bars Narayanan from relitigating this claim, which was already adjudicated in New York state court. FJC Mem. in Supp. of Summ. J. 5-6, ECF No. 80-2. The Court agrees.

The doctrine of claim preclusion states that "a final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in that action." *Simmons v. Trans Express Inc.*, 16 F.4th 357, 360 (2d Cir. 2021). To determine whether a state-court judgment has claim-preclusive effect, a federal court looks to the preclusion law of that state. *Id.* In New York, claim preclusion applies if (1) "there is a judgment on the merits rendered by a court of competent jurisdiction," and (2) "the party against whom the doctrine is invoked was a party to the previous action, or in privity with a party who was."

People ex rel. Spitzer v. Applied Card Sys., Inc., 894 N.E.2d 1, 12 (N.Y. 2008).

Both criteria are satisfied here. First, the state court granted summary judgment to FJC on Narayanan's claim. *See Narayanan*, 21 A.D.3d at 533-34. That qualifies as a judgment on the merits. *Emmons v. Broome Cnty.*, 180 A.D.3d 1213, 1216-17 (3d Dep't 2020). Second, Narayanan was indisputably a party to the prior state court action. Accordingly, Narayanan may not resurrect his breach-of-contract claim — almost twenty years after its demise – in a federal forum. The Court therefore grants FJC's motion for summary judgement as to the breach-of-contract claim.

B. The Intentional Tort Claim

Narayanan also appears to bring an unspecified "intentional tort" claim under New York state law. FJC argues that this claim is untimely. Again, the Court agrees.

Under New York law, claims for damages for intentional torts are subject to a one-year limitations period. *See* N.Y. C.P.L.R. § 215(3); *see also Havell v. Islam*, 292 A.D.2d 210, 210 (1st Dep't 2002) (one-year limitations period applies to all intentional torts, even those not listed in Section 215(3)). Narayanan alleges that the assault occurred in 1998, which makes his present claim clearly untimely.

"Summary judgment on the basis of the expiration of a statute of limitations . . . is appropriate where the plaintiff fails to show the existence of any genuine issue of fact relating to the statute of limitations defense." *Overall v. Klotz*, 846 F. Supp. 297, 299 (S.D.N.Y. 1994). Narayanan has not alleged a genuine dispute as to *any* material fact, let alone one related to the statute of limitations. So, FJC is entitled to summary judgment on Narayanan's intentional tort claim.

C. The Section 1983 Claim

To the extent Narayanan brings a Section 1983 claim against FJC (and it is not entirely clear that he does, given the prolixity of the complaint), that claim also does not survive summary judgment. Leaving aside the question of whether FJC (a security contractor) qualified as a state actor, *see Leeds v. Meltz*, 85 F.3d 51, 54 (2d Cir. 1996) (it is "axiomatic" that Section 1983 only applies to state actors), any Section 1983 claim based on the alleged assault is untimely.

If a state "has one or more statutes of limitations for certain enumerated intentional torts, and a residual statute for all other personal injury actions[,] . . . the residual or general personal injury statute of limitations applies" to federal Section 1983 claims. *Owens v. Okure*, 488 U.S. 235, 236 (1989). New York has a three-year statute of limitations for "non-specified personal injury claims." *BL Doe 3 v. Female*

Acad. of the Sacred Heart, 199 A.D.3d 1419, 1419 (4th Dep't 2021); *see also* N.Y. C.P.L.R. § 214(5). That statute of limitations applies here. *Owens*, 488 U.S. at 236. Narayanan alleges that the underlying assault occurred in 1998. So, his Section 1983 claim is also clearly untimely, and FJC is entitled to summary judgment. *Overall*, 846 F. Supp. at 299.

IV. Conclusion

For the foregoing reasons, FJC's motion for summary judgment is granted in its entirety. Narayanan's cross-motion is denied in its entirety. The Clerk of Court is respectfully directed to dismiss FJC from this action.

SO ORDERED.

/s/ Eric Komitee
ERIC KOMITEE
United States District Judge

Dated: February 28, 2025
Brooklyn, New York